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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII  
726 MINNESOTA AVENUE  
KANSAS CITY, KANSAS 66101

MAY 12 1989

Mr. Peter Keppler  
Vice President and General Counsel  
Amax Environmental Services, Inc.  
1707 Cole Boulevard  
Golden, Colorado 80401-3293

Re: Cherokee County Site  
Field Testing Program  
Work Plan Revision No. Three  
April 1989, EPA Work Assignment No. 23-7L37

Dear Mr. Keppler:

Pursuant to a meeting held April 10, 1989, and subsequent correspondence between the United States Environmental Protection Agency (EPA) and certain Potentially Responsible Parties (PRPs) for the Cherokee County Site, the EPA understands that certain PRPs have offered to perform a field testing program at the Galena Subsite of the Cherokee County Site in accordance with the above-referenced testing program. The Agency appreciates the PRPs' willingness to participate in this field testing program. This letter clarifies the Agency's position regarding the PRPs' performance of the program.

The Agency understands that the participating PRPs include AMAX, Inc., ASARCO, Gold Fields Mining Corporation, NL Industries and Sun Company, Inc.

The Agency expects that this testing program will proceed with the full cooperation of all participating PRPs. The Agency understands and expects that the PRPs will perform the field testing program in accordance with the following: (1) the above-referenced work plan; (2) the schedule in said work plan; (3) the May 1989 Field Operation Plan (FOP), as modified in the attached EPA comments; (4) the use of appropriately qualified professional personnel; (5) the use of reliable quality assurance, quality control and chain of custody procedures; (6) the provision of access; and (7) any other essential requirements for performance of this testing program as specified in said Work Plan. In addition, following the Phase I activities, the FOP will be modified to include plans for Phase II activities.



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Revisions to the FOP will be submitted to the Agency for approval in a timely manner prior to implementation of the Phase II activities.

The PRPs will submit the Preliminary Technical Report on these activities to the Agency by June 28, 1989, as specified in said Work Plan. The Final Draft Report on these activities will be submitted to EPA within 30 calendar days of the receipt of the PRPs' sample results from EPA's Contract Lab Program (CLP). These reports shall provide a summary of field activities and findings of the testing program. Phase I field activities begin May 15, 1989, and Phase II field activities begin May 26, 1989. These start dates must be achieved to complete the Preliminary Technical Report on schedule.

EPA will provide a portable X-ray fluorescence (XRF) spectrometer and one operator of such equipment for use by the PRPs in conducting this program. EPA will provide oversight of all activities conducted by the PRPs pursuant to this program. The PRPs will submit to EPA all testing results and sample analysis immediately upon receipt by the PRPs. All submittals, notices, requests for modifications, and consultation with the Agency shall be given to Mr. Glen Curtis, EPA, Region VII, (913) 236-2856.

The Agency received two letters from Mr. Mark Logsdon, Adrian Brown Consultants (ABC), dated April 20 and 21, 1989. The Agency expects that the Quality Assurance Project Plan for the Cherokee County Site, dated April 1987 will be utilized by the PRPs in performance of this program as recommended by Mr. Logsdon in his letter. In addition, Mr. Logsdon indicated the PRPs intention to adopt CH<sub>2</sub>M Hill's Site Safety Plan for the Cherokee County Site with slight modifications. The Agency does not approve nor disapprove the use of the Site Safety Plan and accepts no liability for the use of this site safety plan by the PRPs, their representatives or consultants, or employees of these entities.

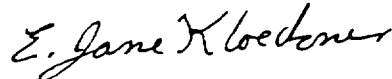
The Agency advises the PRPs that any work they undertake or conclusions they develop pursuant to the testing program may or may not be approved by the Agency. Regardless of Agency approval or disapproval, the PRPs' costs incurred in undertaking this program will not be reimbursed from the Hazardous Substance Response Trust Fund, pursuant to Section 111 of CERCLA, 42 U.S.C. § 9611. The PRPs acknowledge in their April 21, 1989, letter from Ken Paulson, that costs for this activity are not pre-authorized by the Agency. Therefore, the PRPs conduct this activity at their own risk. The Agency reserves its right to fully implement this field testing program without PRP participation if necessary. In addition, EPA reserves its right to take



any enforcement action pursuant to CERCLA or any available legal authority and to seek injunctive relief, if necessary, regarding this site.

The Agency looks forward to a cooperative effort between the PRPs and the government in the implementation of this field testing program. Should you have any questions regarding this letter, please contact the undersigned at (913) 236-2809. Thank you.

Sincerely,



E. Jane Kloeckner  
Assistant Regional Counsel

cc: John Richardson  
ASARCO, Inc.

Mitchell H. Bernstein  
Skadden, Arps, Slate, Meagher & Flom

H. Glenn Rodman  
NL Industries, Inc.

Mary Lynn Beck  
Sun Company, Inc.

Kenneth R. Paulsen  
Amax Minerals and Energy



FIELD TESTING PROGRAM  
WORK PLAN REVISION NO. THREE, APRIL 1989  
EPA WORK ASSIGNMENT NO. 23-7L37

EPA Comments on May 1989 Field Operation  
Plan for Pilot Testing Program -  
Cherokee County Site, Galena Subsite

The U.S. Environmental Protection Agency (EPA) is in receipt of the May 1989 Field Operations Plan for the pilot testing program in the Cherokee County Site - Galena subsite as submitted by Mark Logsdon of Adrian Brown Consultants, Inc. The Agency approves implementation of the plan with the following exceptions. These comments are hereby incorporated by reference into the Field Operations Plan.

1. The purpose of the EPA oversight personnel is to observe the activities conducted by the PRPs or their consultants, not to provide consultation and decision-making as is inferred in the Field Operations Plan. If consultation is needed, the PRPs or their consultants should contact the EPA for such consultation on activities. In the Field Operations Plan, consultation and decision-making by the EPA oversight personnel are implied in: a) page 6, paragraph 1; b) page 6, paragraph 3; c) page 7, paragraph 1; d) page 7, paragraph 2; and e) page 7, paragraph 4. Field personnel should be directed to contact EPA for such consultation, particularly Mr. Glen Curtis.

2. The EPA did not agree to obtain site access, nor do we intend to conduct that work activity as stated in page 1, paragraph 6. The Agency expects the PRPs to provide site access.

3. The PRPs have not been authorized to conduct the pilot testing program via the approved work plan as is stated in the first paragraph of page 1. The PRPs have agreed to conduct the testing program via a letter to EPA.

4. The EPA does not agree that the oxide, carbonate and sulfate forms result primarily from the weathering of the sulfide minerals as stated in page 1, paragraph 2.

5. The purpose of depositing the material above the water table is to keep the most reactive materials above the water table and remove the direct contact with people. It is not to backfill the mined areas as stated in page 1, paragraph 3.

6. The samples the EPA will send to the CLP laboratory for quality assurance should be splits of the samples collected by the PRPs and sent to the PRPs' laboratory as opposed to





replicates as stated on page 2, paragraph 4; page 6, paragraph 1; and page 7, paragraph 4. The samples collected by the PRPs should be large enough so that split samples will be available.

7. The replicate samples or waste rock discussed in page 6, paragraph 1 should be splits and shall be collected for archival purposes.

8. The samples discussed in paragraph 3 of page 6 and in the first paragraph on page 7 that are to be sent to the CLP laboratory, shall be splits of the samples seized and crushed by the PRPs' laboratory.

